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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/899,189	07/06/2001	Harald Seidl	P21161	2689	
7055	7590 04/26/2002				
GREENBLUM & BERNSTEIN, P.L.C.			EXAMINER		
1941 ROLA RESTON, V	ND CLARKE PLACE /A 20191		PHAM, I	HOAI V	
			ART UNIT	PAPER NUMBER	
			2814	2814	
			DATE MAILED: 04/26/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

-	~ :		ί _ν .				
•		Application No.	Applicant(s)				
Office Action Summary		09/899,189	SEIDL ET AL.				
		Examiner	Art Unit				
		Hoai V Pham	2814				
Period fo	The MAILING DATE of this communication or Reply	appears on the cover sheet with the o	correspondence address				
A SHO THE N - Exter after - If the - If NO - Failui - Any r	ORTENED STATUTORY PERIOD FOR REMAILING DATE OF THIS COMMUNICATION is consistent of time may be available under the provisions of 37 CF SIX (6) MONTHS from the mailing date of this communication period for reply specified above is less than thirty (30) days, period for reply is specified above, the maximum statutory period for reply within the set or extended period for reply will, by seply received by the Office later than three months after the red patent term adjustment. See 37 CFR 1.704(b).	ON. FR 1.136(a). In no event, however, may a reply be tir n. a reply within the statutory minimum of thirty (30) day eriod will apply and will expire SIX (6) MONTHS from statute, cause the application to become ABANDONE	mely filed ys will be considered timely. In the mailing date of this communication. ED (35 U.S.C. § 133).				
1)⊠	Responsive to communication(s) filed on	<u>06 July 2001</u> .					
2a) <u></u> □	This action is FINAL . 2b)	This action is non-final.					
3) <u> </u>	Since this application is in condition for al closed in accordance with the practice un on of Claims	llowance except for formal matters, p nder <i>Ex parte Quayle</i> , 1935 C.D. 11, 4	rosecution as to the merits is 453 O.G. 213.				
4)⊠	Claim(s) 1-21 is/are pending in the application	ation.					
•	4a) Of the above claim(s) is/are with	ndrawn from consideration.					
5)	5) Claim(s) is/are allowed.						
6)	6) Claim(s) is/are rejected.						
7)	Claim(s) is/are objected to.						
,	Claim(s) <u>1-21</u> are subject to restriction and on Papers	d/or election requirement.					
9) 🗌 -	The specification is objected to by the Exar	miner.					
10) 🔲 🗆	Γhe drawing(s) filed on is/are: a) ☐ a	accepted or b) dojected to by the Exa	miner.				
	Applicant may not request that any objection						
11) 🔲 🛚	The proposed drawing correction filed on $_$	is: a) approved b) disappro	oved by the Examiner.				
	If approved, corrected drawings are required	in reply to this Office action.					
12) 🔲 🗆	Γhe oath or declaration is objected to by the	e Examiner.					
Priority u	nder 35 U.S.C. §§ 119 and 120						
13)	Acknowledgment is made of a claim for for	reign priority under 35 U.S.C. § 119(a	a)-(d) or (f).				
a)[☐ All b)☐ Some * c)☐ None of:						
	1. Certified copies of the priority docum	nents have been received.					
	2. Certified copies of the priority docum	nents have been received in Applicat	ion No				
* S	3. Copies of the certified copies of the application from the Internationalee the attached detailed Office action for a						
	cknowledgment is made of a claim for dom						
a) ☐ The translation of the foreign language Acknowledgment is made of a claim for dor	e provisional application has been red	ceived.				
Attachment	t(s)						
2) Notic	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948 nation Disclosure Statement(s) (PTO-1449) Paper No	3) 5) Notice of Informal	y (PTO-413) Paper No(s) Patent Application (PTO-152)				

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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to a semiconductor device, classified in class 257, subclass 301.
 - II. Claims 14-21, drawn to a method of making a semiconductor device, classified in class 438, subclass 243.
- 2. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by
- 3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

another and materially different process such as, a dielectric can be formed by

4. In addition, Applicant is further required to elect a species:

Embodiment 1 of figure 1.

sputtering or epitaxial method.

Embodiment 2 of figure 2.

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Embodiment 3 of figure 3.

Embodiment 4 of figure 4.

Embodiment 5 of figure 5.

Embodiment 6 of figure 6.

Embodiment 7 of figure 7.

Embodiment 8 of figure 8.

Embodiment 9 of figure 9.

Embodiment 10 of figure 10.

- 5. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are no claims generic.
- 6. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
- 7. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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- 8. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.
- 9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoai V Pham whose telephone number is 703-308-6173. The examiner can normally be reached on 6:30A.M. 6:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on 703-306-2794. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

HP Hoai Pham February 20, 2002

> OLIK CHAUDHURI SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2800